

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHENEIL EDWARDS,

Plaintiff

Civil Action No.: 18-10230

Honorable Denise Page Hood

Magistrate Judge Elizabeth A. Stafford

v.

TERRY TRIERWEILER, *et*
al.,

Defendants.

**ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS'
MOTION TO COMPEL DISCOVERY [ECF NO. 13]**

On October 18, 2018, Defendants Terry and Kevin Trierweiler filed a motion to compel Plaintiff Cheneil Edwards to produce a copy of her journal that documents her post-accident physical and mental injuries, and to compel her to attend independent medical examinations (IMEs) with orthopedic surgeons Dr. Paul Shapiro and Dr. Daniel Park. [ECF No. 13].¹ The Honorable Denise Page Hood referred the motion to the undersigned for hearing and determination, and this Court scheduled a hearing for

¹ Defendants' motion violated E.D. Mich. LR 5.1.1 (a) and the Court's Electronic Filing Policies and Procedures R18(b), the latter of which states, "The filing user must prepare an index of exhibits and file the index as the first attachment to the paper. Each exhibit must be described on the index both by an exhibit identifier and by a brief narrative description."

November 27, 2018. [ECF Nos. 16, 17]. Edwards' response to the motion was due on November 1, 2018, E.D. Mich. LR 7.1(e)(2), but she has not filed a response. As such, defendants' motion to compel production of the journal and Edwards' attendance at the IMEs is **GRANTED**.

Defendants also request reimbursement of costs and fees incurred from having to file the motion to compel and \$1,000 as reimbursement for the costs of the IMEs that Edwards failed to attend. Edwards is **ORDERED** to appear at the previously scheduled hearing on November 27, 2018 to **SHOW CAUSE** why she or her attorney should not be ordered to pay defendants' reasonable expenses incurred in making the motion to compel the journal, including attorney's fees, under Federal Rule of Civil Procedure 37(a)(5). However, the Court **DENIES** defendants' request for reimbursement of the costs of the IMEs that Edwards failed to attend, as the applicable rules of civil procedure authorize such a sanction only after a party has violated a court order to attend an IME. Fed. R. Civ. P. 35(a) and 37(b)(2)(A)-(C).

Edwards and her counsel are **WARNED** that her failure to attend the show cause hearing on November 27, 2018 or to attend the IMEs as ordered here may result in sanctions under Rule 37 and the Court's inherent authority, up to and including an involuntary dismissal.

IT IS SO ORDERED.

s/Elizabeth A. Stafford
ELIZABETH A. STAFFORD
United States Magistrate Judge

Dated: November 7, 2018

NOTICE TO PARTIES REGARDING OBJECTIONS

The parties' attention is drawn to Fed. R. Civ. P. 72(a), which provides a period of 14 days from the date of receipt of a copy of this order within which to file objections for consideration by the district judge under 28 U.S.C. § 636(b)(1).

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on November 7, 2018.

s/Marlina Williams
MARLENA WILLIAMS
Case Manager